

Remarks

Claims 1-17 are under consideration. Claims 1-8 are directed to a child safety overcap for a hermetically sealed container. Claims 9-17 are directed to a hermetically sealed container that includes an overcap as defined by claims 1-8.

Claims 8, 9 and 10 are amended to further define the claimed invention. No new matter has been introduced.

The drawings have been amended to correct the cross-hatching of the cross-sectional views of FIGURES 3, 4 and 6.

The rejection of claims 9 and 10 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,228,593 to O'Meara is not warranted and is hereby traversed. O'Meara does not show an expandable rim for its cap 11. O'Meara likewise does not show an elongate internal slot in the cap which slot is adapted to engage a grip tab on the access closure of the hermetically sealed container.

Regarding claim 10, indicia arrows 17 and 19 in O'Meara serve an entirely different purpose. The rotary position indicators 58 and 40 of the presently claimed invention serve to facilitate the alignment of an elongate slot 60 in overcap 42 with a grip tab on the container. As pointed out hereinabove, O'Meara does not show an elongate slot.

The rejection of claims 9 and 11 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 4,620,638 to Schmidt is traversed as well. Schmidt does not show an overcap having an expandable rim. The threaded, relatively thick skirt portion of overcap 1 in Schmidt clearly is neither flexible nor expandable.

As to claim 11, Schmidt only shows intersecting slots spaced about 90 degrees apart. In contradistinction, claim 11 calls for three slots.

The rejection of claims 1-6 under 35 U.S.C. 103(a) as unpatentable over Schmidt in view of U.S. Patent No. 5,085,332 to Gettig et al. is likewise unwarranted and is traversed. As stated hereinabove, Schmidt does not show an expandable rim. Thus, one of ordinary skill would not have turned to Gettig et al. when seeking to improve the cap shown by Schmidt.

Moreover, skirt segments 70 separated by slots 72 in Gettig et al. are not dentils. Bottom edge 74 of segments 70 has an inturned lip 80 which provides a clamping action. See, for example, Gettig et al. at col. 4, lines 10-12, lines 17-20, and lines 54-59. Lip 80 interacts with undercut 90 for the clamping action. In contradistinction, the claimed dentils spread outwardly when the cap is pushed down onto the hermetically sealed container to engage the grip tab. See, for example, FIGURE 4.

As to claim 7, the Examiner's further reliance on O'Meara does not cure the deficiencies of Schmidt and Gettig et al. O'Meara does not show an expandable rim. The rejection is not warranted.

As to claims 8 and 10, these claims call for a rotary slot position. The position indicators shown by O'Meara serve an entirely different purpose as explained hereinabove. Moreover, the same distinctions apply vis-a-vis Schmidt as those discussed hereinabove with respect to claims 1 and 9. This particular rejection is not warranted as well.

As to claims 12-16, these claims depend directly or indirectly on claim 9 and include the same distinctions over Schmidt as claim 9. Gettig et al. does not cure any of these deficiencies even if it is assumed, *arguendo*, that Schmidt and Gettig et al. are indeed combinable. They are not, however. Schmidt shows a threaded overcap whereas Gettig et al. show a cap with a clamping mechanism. Besides, Gettig et al. do not show or suggest the presently claimed dentils.

The structural features of Schmidt and those of Gettig et al. are entirely different. Absent applicant's own specification as a guide, one of ordinary skill would not have selected isolated features from Gettig et al. when seeking to improve the threaded overcap of Schmidt. The rejection of claim 12-16 under 35 U.S.C. 103(a) as unpatentable over Schmidt in view of Gettig et al. is clearly unwarranted and should be withdrawn.

The rejection of claim 17 under 35 U.S.C. 103(a) as unpatentable over Schmidt in view of Gettig et al. further in view of O'Meara is also traversed. The same distinctions over Schmidt and Gettig et al. discussed hereinabove vis-a-vis claim 12 are equally applicable to claim 17. O'Meara does not cure the aforementioned deficiencies of Schmidt and Gettig et al. as references against claim 17.

The references cited but not applied against the claims have been reviewed with interest. These references do not vitiate the patentability of the present claims, however.

The present amendments to the claims and the accompanying discussion are deemed to dispose of all issues in this case, and to place this application in condition for allowance. Early such action is solicited.

Respectfully submitted,

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By 
Talivaldis Cepuritis (Reg. No. 20,818)

OLSON & HIERL, LTD.
20 North Wacker Drive
36th Floor
Chicago, Illinois 60606
(312) 580-1180

Amendments to the Drawings

The attached sheets of drawing include changes to FIGURES 3, 4 and 6. These sheets, which include FIGURES 1-6, replace the original sheets including FIGURES 1-6. In FIGURES 3, 4 and 6 the cross-sectional views of the injection molded plastic material are shown as alternating thick and thin lines.

Attachment: Two (2) Replacement Sheets